recover its embedded costs and compensate Bell Atlantic for an inefficiently operated and designed network. The Board itself recognized this, stating that Bell Atlantic's cost model was flawed because its "reliance on historic costs and network designs as reflective of forward-looking costs may tend to overstate costs as we move into the future . . . and may not be representative of the decisions an efficient supplier would make when constructing a network today." December 2, 1997 Order at 65 (emphasis added).

70. Moreover, Bell Atlantic's cost models are based on a network design that provides broadband telecommunications service (e.g., video), which is significantly more expensive than a design which provides basic, voice-grade, or narrowband service. This forces captive telephone users to fund Bell Atlantic's entry into the risky and competitive broadband services market. And in addition to these methodological errors, Bell Atlantic's cost model contains computational errors that overstate costs even further.

71. Nonetheless, in determining the rates for interconnection and the recurring rates for unbundled network elements, the Board arbitrarily assigned 60% weight to Bell Atlantic's highly flawed, embedded cost infected, proposals and only 40% to AT&T's forward-looking, cost-based proposals. As a result, the Agreement's rates for interconnection and recurring rates for network elements greatly overstate the forward-looking, economic costs of providing interconnection and network elements (and therefore are not cost-based) in violation of the 1996 Act.

72. In determining the rates for non-recurring charges, the Board exclusively adopted Bell Atlantic's highly flawed cost model, despite the fact that it did not calculate rates based on forward looking costs. The Board claimed that such a result was consistent with the 1996 Act because AT&T did not submit a cost model for non-recurring charges. AT&T, however, thoroughly critiqued Bell Atlantic's results during the proceedings, pointing out the flaws in Bell Atlantic's cost model and the

inflated nature of Bell Atlantic's non-recurring charges, and proposed non-recurring charges of its own which properly reflected forward-looking economic costs. Without explanation, the Board held that it "cannot accept, as the basis for identifying costs and establishing cost-based rates, a CLEC analysis which consists of a critique of the non-recurring study proposed by [Bell Atlantic]." As a result, the Board gave Bell Atlantic's cost model 100% weight in the determination of these non-recurring charges, even though the Board previously had stated that Bell Atlantic's model did not properly calculate cost-based rates. December 2, 1997 Order at 65, 100. In so doing, the Board violated the cost-based pricing requirements of the 1996 Act, and was arbitrary and capricious.

73. The Board compounded its heavy reliance on Bell Atlantic's historic cost focused model by inflating the inputs it used in the cost models to calculate network element and interconnection rates. These inputs, which include such items as cost of capital, have a substantial impact on the costs calculated by both Bell Atlantic's and AT&T's model. For example, the Board found that rates should reflect the enormous amounts of excess capacity that currently exist in Bell Atlantic's network. This would force each new entrant (and therefore consumers) to pay the costs of assumed deployment of substantial amounts of equipment that is not used -- and may never be used -- to provide telephone service. Tellingly, Bell Atlantic's own engineering guidelines contemplate significantly lower levels of spare capacity than those advocated by Bell Atlantic and adopted by the Board. Similarly, the Board ordered depreciation rates adopted in a state based proceeding intended to "accelerate the advancement of a 'state of the art' telecommunications network." December 2, 1997 Order at 73. These depreciation rates, which are radically different from the forward-looking depreciation rates specifically approved by the FCC for use in New Jersey, necessarily shorten the asset lives of equipment in order to "accelerate" the introduction of new equipment and thus inflate network element rates.

74. For these, and other reasons, the interconnection and network element rates contained in the Agreement vastly overstate the forward-looking, economic costs of providing interconnection and network elements. Accordingly, the interconnection and network element rates violate section 252(d)(1) of the 1996 Act. Because these rates exceed Bell Atlantic's cost of providing interconnection and network elements to itself, they also are unjust, unreasonable, and discriminatory in violation of sections 251 and 252 of the 1996 Act.

75. In addition, the inflated costs of the unbundled network elements contravene binding FCC regulations that prohibit incumbent LECs from imposing "limitations, restrictions, or requirements on . . . the use of unbundled network elements that would impair the ability of a requesting telecommunications carrier to offer a telecommunication service." 47 C.F.R. § 51.309(a). As the FCC has held, inflated costs for network elements "impair" the ability of a requesting telecommunications carrier to offer a telecommunication service. FCC Local Competition Order ¶ 285.

**Unlawful Resale Restrictions and Violation of Resale Pricing Standard**

76. The Agreement and the Board's determinations violate the 1996 Act and FCC regulations by imposing unreasonable restrictions on the resale of customer specific pricing arrangements ("CSPAs") and by failing to price the resale of CSPAs at an avoided cost wholesale discount. Instead the Board ruled that "pricing will be determined on an individual case basis." December 2, 1997 Order at 211.

77. Section 251(c)(4)(A) of the 1996 Act requires incumbents "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." Section 251(c)(4)(B) prohibits the imposition of

"unreasonable or discriminatory conditions, or limitations on . . . resale," and the FCC "conclude[d] that resale restrictions are presumptively unreasonable." FCC Local Competition Order ¶ 939. Yet the Board restricted the resale of CSPA's to end-users who are "similarly situated customers with similar cost profiles," December 2, 1997 Order at 211, without Bell Atlantic providing any evidence overcoming the presumption of unreasonableness. In particular, Bell Atlantic failed to make the showing required by the FCC to overcome the presumption of unreasonableness in relation to CSPA and volume discounts -- "that [Bell Atlantic's] avoided costs differ when selling in large volumes." FCC Local Competition Order ¶ 953. Moreover, by requiring pricing to be negotiated with Bell Atlantic "on an individual case basis" and requiring use of the dispute resolution process to determine pricing in the event of dispute, December 2, 1997 Order at 211-212, the Board has imposed additional unreasonable restrictions on AT&T's resale of CSPAs.

78. Section 252(d)(3) requires State commissions to "determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier." The FCC has determined that "[t]his language makes no exception for promotional or discounted offerings, including contract and other customer-specific offerings." FCC Local Competition Order ¶ 948 (emphasis added). Yet instead of applying the 17.04% or 20.03% avoided cost discount ordered by the Board, December 2, 1997 Order at 202, to the price in the CSPA, the Board has ordered that "pricing will be determined on an individual case basis." Id. at 211. This clearly violates section 252(d)(3)'s requirement that wholesale rates be determined using an avoided cost discount.

Unlawful Interconnection Point Limitation

79. The Agreement and the Board's Orders violate the 1996 Act and FCC regulations by requiring Bell Atlantic to provide AT&T with only one interconnection point ("IP") per local access and transport area ("LATA").

80. Section 251(c)(2) requires incumbent LECs to "provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network." This section further provides that such interconnection must be provided "at any technically feasible point within the [incumbent] carrier's network."

81. The FCC has ruled that section 251(c)(2) "allows competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs . . . ." FCC Local Competition Order ¶ 172 (emphasis added). This flexibility gives competing carriers "the right to deliver traffic . . . at any technically feasible point . . . rather than obligating such carriers to transport traffic to less . . . convenient or efficient interconnection points." Id. ¶ 209. The FCC also identified a minimum list of six technically feasible points for interconnection, id. ¶ 212, and ruled that, to deny a competitor interconnection at a requested point, "incumbent LECs must prove . . . that [the] particular interconnection or access point is not technically feasible." Id. ¶ 98.

82. In violation of these provisions, the Board stated that it "envisions one IP per LATA" and "should a [competitive] LEC for any reason require more than one IP per LATA, the charges must be agreed to by the parties or developed through the dispute resolution process established herein[.]" December 2, 1997 Order at 103-04. By requiring Bell Atlantic to provide interconnection at only one point per LATA, the Agreement and the Board's determinations violate the 1996 Act by failing to require Bell Atlantic to provide interconnection at any technically feasible point. Furthermore, the one point per LATA restriction was not advocated by any party to the proceedings,

and was imposed by the Board without any showing by Bell Atlantic that additional interconnection points per LATA were technically unfeasible.

83. In addition, by imposing a restriction that creates inefficiency and artificially raises AT&T's costs, the Agreement and the Board's Order violate the 1996 Act and FCC implementing regulations which require that the terms and conditions of interconnection be "just, reasonable, and nondiscriminatory" and "at least equal in quality" to that which Bell Atlantic provides itself. See 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a)(3).

**Unlawful Failure to Provide Directory Assistance Database Access**

84. The Agreement and the Board's determinations violate the 1996 Act and binding FCC regulations by failing to require Bell Atlantic to provide AT&T access to Bell Atlantic's subscriber listing information in readily accessible magnetic tape or electronic format. While the 1996 Act's nondiscrimination requirement and FCC regulations clearly require both read-only access to the incumbent's directory assistance database and the provision of complete subscriber listing information in electronic form to allow entrants to construct their own databases, the Board refused to order the latter "conclud[ing] that the [FCC Local Competition] Order did not contemplate the exchange of magnetic tapes in the provision of directory assistance." December 2, 1997 Order at 144, 259.

85. Section 251(b)(3) of the 1996 Act imposes a duty on all LECs "to permit all [competing] providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing[s]." The Agreement fails to meet the nondiscrimination requirements of the section because while Bell Atlantic has access to its own database and the underlying subscriber listing information, the Agreement only provides AT&T access to the database, and not the underlying information.

86. The FCC has recognized the need for both forms of access. In interpreting section 251(b)(3) of the 1996 Act, the FCC "conclude[d] that section 251(b)(3) requires LECs to share subscriber listing information with their competitors, in 'readily accessible' tape or electronic formats, and that such data be provided in a timely fashion upon request." Second Report and Order and Memorandum Opinion and Order, In re Implementation of the Local Competition Provisions of in the Telecommunications Act of 1996, CC Docket No. 96-98 (FCC Aug. 8, 1996) ("Second FCC Order") ¶ 141 (emphasis added). The Board ignored paragraph 141 of the Second FCC Order, and focused exclusively on paragraph 143, in which the FCC "further" ruled that incumbents must provide read-only access to their directory assistance databases.

87. In addition, the Board violated a binding FCC regulation which explicitly states that Bell Atlantic must provide both forms of access to directory information. "A LEC shall provide directory listings to competing providers in readily accessible magnetic tape or electronic formats in a timely fashion upon request. A LEC also must permit competing providers to have access to and read the information in the LEC's directory assistance databases." 47 C.F.R. § 51.217(c)(3)(ii) (emphasis added). Thus, in only implementing half of the requirements of this FCC rule, the Agreement plainly fails to meet the mandate of sections 252(c)(1) and 252(e)(2)(B) of the 1996 Act, which require that the Board's arbitration and the Agreement comply with regulations prescribed by the FCC pursuant to sections 251.

**Unlawful Failure to Provide Route Indexing for Interim Number Portability**

88. The Agreement and the Board's determinations violate the 1996 Act and FCC regulations by failing to require Bell Atlantic to provide route indexing as an interim number portability option.

89. Number portability is the functionality that allows a subscriber to retain its existing telephone number when it changes its telecommunications provider. The matter of permanent number portability is the subject of In re Telephone Number Portability, CC Docket No 95-116. Until a permanent solution is resolved, an interim solution must be implemented to facilitate local competition without undue delay.

90. The Agreement and the Board's determinations violate the 1996 Act and FCC regulations by failing to require Bell Atlantic to provide route indexing as an interim number portability option. The Board found that remote call forwarding ("RCF") and direct inward dialing ("DID") were "the appropriate interim number portability" solution, and refused to require Bell Atlantic to provide route indexing as an interim number portability option because the Board could "find no reason to require parties to experiment with other arrangements for such a short period of time." December 2, 1997 Order at 115-119, 258.

91. Section 251 (b)(2) of the 1996 Act imposes upon LECs "[t]he duty to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the [FCC]." The FCC expressly has required that, until a permanent number portability solution is deployed fully, an incumbent LEC must provide all technically feasible interim number portability methods sought by new entrants which are comparable to or better than (in terms of quality, reliability and convenience) methods already prescribed by the FCC. First Report and Order and Further Notice of Proposed Rulemaking, In re Telephone Number Portability, CC Docket No 95-116, ¶¶ 110,111 & 115 (July 2, 1996); 47 C.F.R. § 52.27.

92. Route indexing is technically feasible and is comparable to or better than the FCC's prescribed methods. AT&T has demonstrated the technical feasibility of route indexing by successfully testing the method in New Jersey and implementing it in New York.

Failure to Allocate Costs of Interim Number Portability in a Competitively Neutral Manner

93. The Board's decision to impose a $1.00 fee on every number ported was unsupported and arbitrary and capricious and, in any event, failed to apportion the costs of interim number portability in a competitively neutral manner as required by the Act and the FCC's binding rules on number portability. By unlawfully requiring new entrants to pay the vast majority of the costs of interim portability, the Agreement and the Board's determinations breach not only the Act's competitive neutrality requirement, but also specific FCC number portability rules which prohibit charging new entrants the full incremental costs of interim number portability. December 2, 1997 Order at 118.

94. Section 251(b)(2) imposes on all LECs the duty to provide number portability in accordance with FCC regulations. Section 251(e)(2) requires that the costs of "number portability be borne by all telecommunications carriers on a competitively neutral basis as determined by the [FCC]" (emphasis added). In compliance with the Act, the FCC established binding criteria for determining whether a method of allocating the costs of INP was consistent with the Act. See 47 C.F.R. § 52.9; First Report and Order, In Re Telephone Number Portability, CC Docket No. 95-116, (July 2, 1996) 121-140 ("Number Portability Order"). The FCC also noted that it expected INP charges "to be close to zero[.]" Id. at ¶ 133.

95. The Board's staff admitted that the Board-imposed monthly charge of $1.00 per number ported was "significantly above [Bell Atlantic's] costs." Tr. 7/17/97 at 53. Moreover, the Board's charge attempts to impose the full incremental cost of each ported number on the carrier whose customer is obtaining the ported number. In addition, because the vast majority of number ports will be for customers changing from the incumbent to a new entrant, new entrants will pay the

vast majority of the overall costs of number portability. For both these reasons the Board's number portability charge violates the Act and FCC rules.

96. Further, the FCC specifically ruled that "[i]mposing the full incremental cost of number portability solely on new entrants would contravene the statutory mandate that all carriers share the cost of number portability" and "would not meet the first criterion for 'competitive neutrality' because a new facilities based carrier would be placed at an appreciable, incremental cost disadvantage relative to another service provider, when competing for the same customer." Number Portability Order ¶ 138. In contrast, the FCC specifically approved a number of INP cost allocation methods, including the method advocated by AT&T (requiring each carrier to bear its own costs).

## Unlawful Two-Way Trunking Restrictions

97. The Agreement and the Board's Orders violate the 1996 Act and binding FCC regulations by unlawfully restricting AT&T's ability to obtain and utilize two-way trunking when AT&T connects to Bell Atlantic's network.

98. The FCC has expressly held that an incumbent LEC's refusal to provide two-way trunking "would raise costs for new entrants and create a barrier to entry" and thus "if two-way trunking is technically feasible, it would not be just, reasonable, and nondiscriminatory for the incumbent LEC to refuse to provide it." FCC Local Competition Order ¶ 219.

99. In addition, section 251(c)(2) of the 1996 Act requires incumbents to provide interconnection on "terms and conditions that are just, reasonable, and nondiscriminatory" and "at least equal in quality" to that which Bell Atlantic provides itself.

100. The Board's determinations and the Agreement violate these provisions by restricting AT&T's ability to share its two-way trunk groups with Bell Atlantic. December 2, 1997 Order at

104, 257 (the Board states it "will not order shared two-way trunking"). This unjust, unreasonable, and discriminatory restriction violates section 251(c)(2) of the Act because it denies AT&T the benefits of Bell Atlantic's economies of scale, and thus provides interconnection to AT&T "in a manner less efficient than [Bell Atlantic] provides itself." FCC Local Competition Order ¶ 218.

## COUNT ONE

### (Unlawful Network Element Rates)

101. AT&T repeats and realleges paragraphs 1 through 100 above as if fully set forth herein.

102. The Board's and its Board Member's final decisions to reject the arbitrated rates that met the requirements of the 1996 Act, are arbitrary and capricious, abuses of discretion, contrary to law, and not supported by the record.

103. The rates for interconnection and the recurring and non-recurring rates for unbundled network elements that were established in the generic proceeding, incorporated into the Agreement, and approved by the Board violate the 1996 Act because they (1) are not based on the cost of providing interconnection or network elements; (2) are unjust, unreasonable, and discriminatory; and (3) constitute an impermissible limitation on the use of unbundled network elements to provide telecommunications services, all in violation of sections 251 and 252 of the 1996 Act and FCC regulations.

104. The determinations of the Board and its Board Members in authorizing rates for interconnection and recurring and non-recurring rates for unbundled network elements that (1) are not based on the cost of providing interconnection or network elements; (2) are unjust, unreasonable, and discriminatory; and (3) constitute an impermissible limitation on the use of unbundled network

elements to provide telecommunications services, are arbitrary and capricious, abuses of discretion, contrary to law, and not supported by the record.

105. Bell Atlantic's refusal to execute the interconnection agreement that contained the rates set by the Arbitrator violates section 252 of the 1996 Act.

106. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

107. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## COUNT TWO

### (Unlawful Resale Restrictions and Failure to make Customer Specific Pricing Arrangements Available for Resale at an Avoided Cost Wholesale Discount)

108. AT&T repeats and realleges paragraphs 1 through 107 above as if fully set forth herein.

109. The Agreement and the Board's determinations imposing unreasonable resale restrictions and failing to make CSPAs available for resale at an avoided cost wholesale discount violate and do not meet the requirements of 47 U.S.C. §§ 251(c)(4)(A), 251(c)(4)(B) and 252(d)(3) and FCC regulations.

110. The Agreement and the Board's determinations, in failing to make CSPAs available for resale at an avoided cost wholesale discount, are arbitrary and capricious, an abuse of discretion, contrary to law, and not supported by the record.

111. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

112. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## COUNT THREE

### (Unlawful Interconnection Point Limitation)

113. AT&T repeats and realleges paragraphs 1 through 112 above as if fully set forth herein.

114. The Agreement and the Board's determinations imposing a limitation of one interconnection point per LATA violate and do not meet the requirements of 47 U.S.C. § 251(c)(2) and FCC regulations.

115. The Agreement and the Board's determinations imposing a limitation of one interconnection point per LATA are arbitrary and capricious, an abuse of discretion, contrary to law, and not supported by the record.

116. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

117. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## COUNT FOUR

### (Unlawful Failure To Provide Directory Assistance Database Access)

118. AT&T repeats and realleges paragraphs 1 through 117 above as if fully set forth herein.

119. The Agreement and the Board's determinations failing to require Bell Atlantic to provide AT&T access to subscriber listing information in readily accessible magnetic tape or electronic format violate and do not meet the requirements of 47 U.S.C. § 251(b)(3) and FCC regulations.

120. The Agreement and the Board's determinations failing to require Bell Atlantic to provide AT&T access to subscriber listing information in readily accessible magnetic tape or electronic format are arbitrary and capricious, an abuse of discretion, contrary to law, and not supported by the record.

121. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

122. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## COUNT FIVE

### (Failure to Require Route Indexing as an Interim Number Portability Method)

123. AT&T repeats and realleges paragraphs 1 through 122 above as if fully set forth herein.

124. The Agreement and the Board's determinations failing to require route indexing as an interim number portability method violate and do not meet the requirements of 47 U.S.C. § 251(b)(2) and FCC regulations.

125. The Agreement and the Commission's determinations, in failing to require route indexing as an interim number portability method are arbitrary and capricious, an abuse of discretion, contrary to law, and not supported by the record.

126. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

127. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## COUNT SIX

### (Imposition of Non-Cost-Based Interim Number Portability Charges and Failure to Allocate Costs of Interim Number Portability in a Competitively Neutral Manner)

128. AT&T repeats and realleges paragraphs 1 through 127 above as if fully set forth herein.

129. The Agreement and the Board's determinations imposing INP charges that are significantly above Bell Atlantic's costs and failing to allocate INP costs in a competitively neutral manner violate and do not meet the requirements of 47 U.S.C. §§ 251(b)(2) and 251(e)(2) and the FCC's implementing regulations.

130. The Agreement and the Board's determination imposing INP charges that are significantly above Bell Atlantic's costs and failing to allocate INP costs in a competitively neutral manner are arbitrary and capricious, an abuse of discretion, contrary to law, and not supported by the record.

131. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

132. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## COUNT SEVEN

## (Unlawful Two-Way Trunking Restrictions)

133. AT&T repeats and realleges paragraphs 1 through 132 above as if fully set forth herein.

134. The Agreement and the Board's determinations unlawfully restricting AT&T's ability to obtain and utilize two way trunking when AT&T interconnects with Bell Atlantic's network violate and do not meet the requirements of 47 U.S.C.§§ 251(c)(2) and 251(c)(3) and FCC regulations.

135. The Agreement and the Board's determinations unlawfully restricting AT&T's ability to obtain and utilize two way trunking when AT&T interconnects with Bell Atlantic's network are arbitrary and capricious, an abuse of discretion, contrary to law, and not supported by the record.

136. AT&T has been aggrieved within the meaning of section 252(e)(6) of the 1996 Act, as set forth herein.

137. AT&T therefore is entitled to declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202 and 47 U.S.C. § 252(e)(6).

## PRAYER FOR RELIEF

**WHEREFORE**, AT&T requests that this Court grant it the following relief:

(a) Declare that the provisions of the Agreement, by failing to include, and the determinations of the Board and its Board Members by belatedly rejecting, arbitrated rates that met the requirements of the 1996 Act are arbitrary and capricious;

(b) Declare that the rates for interconnection and the recurring and non-recurring rates for unbundled network elements that were established in the generic proceeding, incorporated into the Agreement, and approved by the Board, violate and do not meet the requirements of sections 251 and

252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

© Declare that the provisions of the Agreement imposing unlawful resale restrictions and failing to make CSPAs available for resale at an avoided cost wholesale discount violate and do not meet the requirements of sections 251 and 252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

(d) Declare that the provisions of the Agreement imposing a limitation of one interconnection point per LATA violate and do not meet the requirements of sections 251 and 252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

(e) Declare that the provisions of the Agreement failing to require Bell Atlantic to provide AT&T access to subscriber listing information in readily accessible magnetic tape or electronic format violate and do not meet the requirements of sections 251 and 252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

(f) Declare that the provisions of the Agreement failing to require route indexing as an interim number portability method violate and do not meet the requirements of sections 251 and 252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

(g) Declare that the provisions of the Agreement imposing excessive INP charges and failing and to allocate INP costs in a competitively neutral manner violate and do not meet the requirements of sections 251 and 252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

(h) Declare that the provisions of the Agreement unlawfully restricting AT&T's ability to obtain and utilize two-way trunking when AT&T interconnects with Bell Atlantic's network violate and do not meet the requirements of sections 251 and 252 of the Telecommunications Act of 1996 and the FCC's implementing regulations and are otherwise arbitrary and capricious;

(I) Enjoin defendants from enforcing, or conducting business pursuant to, and the Board and the Board Members from approving or enforcing, any provisions of the Agreement that are inconsistent with the declaratory relief sought herein;

(j) Enjoin the Board and the Board Members from approving any agreement that does not include the arbitrated rates;

(k) Enjoin Bell Atlantic from conducting business pursuant to, and the Board and Board Members from approving or enforcing, any agreement that does not contain language (1) requiring Bell Atlantic to make CSPAs available for resale at an avoided cost wholesale discount without requiring further negotiation with Bell Atlantic; (2) requiring Bell Atlantic to offer interconnection at all technically feasible points on the same rates, terms and conditions as the first interconnection point; (3) requiring Bell Atlantic to provide AT&T access to subscriber listing information in readily accessible magnetic tape or electronic format; (4) requiring route indexing as an interim number portability method; (5) allocating the costs of providing INP in a competitively neutral manner; and (6) requiring Bell Atlantic to provide shared two-way trunking when AT&T interconnects with Bell Atlantic's network.

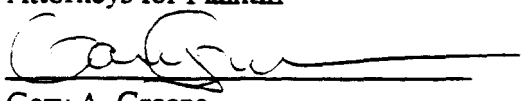
(l) Direct the reformation of the Agreement and the inclusion of contract language consistent with the 1996 Act and the decision of this Court; and

(m) Award AT&T such other and further relief as the Court deems just and proper.

Respectfully submitted,

**AT&T COMMUNICATIONS OF NEW JERSEY, INC.**

Attorneys for Plaintiff



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Dated: January 12, 1998

# EXHIBIT A

AGENDA DATE: 6-19-96

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

TELECOMMUNICATIONS

IN THE MATTER OF A NOTICE OF )
PRE-PROPOSAL AND NOTICE OF )
INVESTIGATION REGARDING LOCAL )
EXCHANGE COMPETITION FOR )
TELECOMMUNICATIONS SERVICES )

DECISION AND ORDER

DOCKET NO. TX95120631

BY THE BOARD:

The Board, at its regularly scheduled open public meeting held on December 8, 1995, initiated an investigation and rulemaking proceeding to determine whether or not to permit local exchange competition in New Jersey and, if so, under what terms and conditions such competition should be allowed. The Notice of Pre-proposal and Notice of Investigation (NOI)(PPR 1996-1) was published in the New Jersey Register on January 16, 1996 at 28 N.J.R. 247(b), providing for a comment period up to and including February 15, 1996. The comment period was subsequently extended to March 1, 1996. In addition, on March 26, 1996, the Board asked a supplemental question seeking comment as to what could be appropriate wholesale resale rates, and the most expeditious way to determine those rates. The Board received comments to the NOI from 13 parties and 10 of those parties responded to the supplemental question.

Subsequent to this Board action, the Telecommunications Act of 1996 (the Act) was signed into law on February 8, 1996, revising communications laws that had been in existence since 1934. The legislation is intended to provide for a pro-competitive, deregulatory policy designed to accelerate rapid deployment of advanced telecommunications and information services, and technology by opening all telecommunications markets to competition. As part of the Act, potential local exchange competitors can request negotiations with incumbent local exchange carriers for interconnection arrangements. The Act requires that interconnection arrangements must be in place within 9 months from the date of the interconnection request. If no agreements are reached within 135-160 days after the initial request, then, upon petition, the Board must arbitrate an agreement for interconnection arrangements, rates, and other unresolved issues regarding access to essential services that are necessary for new entrants to begin providing service.

In an effort to begin the transition to a competitive local exchange marketplace, as envisioned by the Act and articulated by the Board when this investigation was initiated, the Board will take a two-step approach. As an initial step, the Board will await the receipt of negotiated agreements or arbitration requests and utilize that process to determine the appropriate rates, terms, and conditions of interconnection for those individual carriers making such filings. The second step begins a generic rulemaking/adjudicative proceeding to determine the core issues of cost of a local exchange carrier's (LEC's) basic telephone service; the appropriate rates, terms and conditions of interconnection and; wholesale resale rates applicable for all services. The generic terms and conditions shall be offered as guidelines for all entities who are not parties to either negotiated agreements or arbitrated determinations, thus allowing the Board to determine the appropriate general terms and conditions for a competitive [illegible]tplace.

While the Board's determinations on each negotiated agreement or arbitrated decision will apply solely to the parties to those determinations, the Board shall establish a generic proceeding under this docket, that will culminate in a rule which will articulate the general rates, terms and conditions for interconnection and wholesale resale rates applicable to all providers of local exchange services. The Board does anticipate that certain issues that are to be addressed in the generic proceeding may be resolved through arbitration or negotiated agreements. Our intent is to establish generally available terms and conditions that will be available to any entity choosing to provide service in New Jersey and therefore, avoid the need to arbitrate or negotiate each and every company's request. This is an option we believe should be made available to new entrants. In addition, the generally available terms and conditions that result from the generic proceeding will not supersede arbitrated terms and conditions or those contained in negotiated agreements.

In order to establish generic terms and conditions for interconnection, develop appropriate wholesale resale rates and determine the effects of local competition on universal service, a rulemaking with a fact finding component shall be instituted which will culminate in a rule. Issues to be addressed in the fact finding component are (1) interconnection rates, terms and conditions; (2) the development of wholesale resale rates; and (3) the effects of local competition on universal service.

This proceeding shall not be described or viewed as a filing of a "Statement of Generally Available Terms", pursuant to section 252(f) of the Act. As provided in the Act, such a filing is made by a LEC and requires that the Board complete its review of the filing and issue a decision within 60 days of the filing. This proceeding is a generic rulemaking initiated by the Board to establish the appropriate interconnection and wholesale resale rates, terms, and conditions applicable to all providers of local exchange services in New Jersey, and is therefore not subject to the time constraints in the Act.

In an effort to expedite this proceeding, the Board HEREBY DIRECTS the Attorney General's Office and Board Staff to preside over a pre-hearing conference to be held on July 9, 1996, to refine the issues to be litigated and HEREBY INITIATES the discovery process effective with the issuance of this Board Order.

Commissioner Edward H. Salmon has recused himself from participation in and consideration of this matter.

DATED: June 20, 1996

BOARD OF PUBLIC UTILITIES
BY:

HERBERT H. TATE
PRESIDENT

Carmen J. Armenti

CARMEN J. ARMENTI
COMMISSIONER

ATTEST:

JAMES A. NAPPI
SECRETARY

# EXHIBIT C